

NATURAL RESOURCES COMMISSION

Meeting Minutes

March 19, 2008

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, Concord, MA at 7:00 p.m. on Wednesday, March 19, 2008. The following Commissioners were present: Jamie Bemis, Acting Chair, George Lewis, and Steve Verrill. Delia Kaye, Natural Resources Administrator, and Cynthia L. Gray, Natural Resources Administrative Assistant, were also present.

CONTINUANCES:

BRYANT – 61 Musketaquid Road – Removing a portion of the existing single-family dwelling and constructing an addition together with site improvements including constructing a retaining wall, expanding the paved driveway, vista pruning, and landscaping within Bordering Land Subject to Flooding, the 200-foot Riverfront Area of the Sudbury River, and the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-964**

Greg Roy of Ducharme & Dillis Civil Design Group appeared together with the applicants, James Bryant and Christine Cournoyer. Mr. Roy submitted supplemental information after the site visit with the Commission on March 4, 2008. Natural Heritage has determined that no “take” of state-listed species will occur from the proposed work, and that the proposed project will not adversely affect rare species habitat. The driveway width has been reduced with a net increase of 1,500 square feet of impervious surface. The Commission expressed concern with the use of herbicides in the proposed garden, and suggested that the applicant move the garden up to the existing wall and use only organic materials in the garden. The Commission requested that the applicant provide an invasive species plan to indicate the type of species, the methodology of control and the timetable for application. The erosion control barrier should also be reflected on the plan. Delia Kaye noted that lowbush blueberry and mountain laurel do not grow well in the floodplain and suggested that the applicant reconsider more flood-tolerant plantings. A Special Condition will be incorporated into the permit requiring that areas to be vista pruned will be approved by DNR staff prior to implementation. Trees will be in full leaf out condition to best understand which areas may be pruned without compromising the interests of the Wetlands Protection Act. The Commission approves of selective windows, but not wholesale clearing.

The applicant is currently seeking a building permit from the Building Department and will determine whether a permit from the Zoning Board of Appeals is necessary because of the Wetland Conservancy District and Floodplain Conservancy District present on the site.

This hearing was continued to April 2, 2008 to allow more information to be provided.

NEW APPLICATIONS:

231 NASHOBA ROAD REAL ESTATE TRUST (McCloy) / RDA -- 231 Nashoba Road

The proposed project involves removing trees within the 100-foot Buffer Zone of Bordering Vegetated Wetland

James McCloy appeared on behalf of the applicant. Mr. McCloy has retained Pete McBride, an Arborist, to remove four pine trees and one red oak and grind the stumps in place. There is also one dead pine tree down the slope which will be cut at 30 feet from the ground to allow wildlife habitat to remain and provide safer conditions desired by the Applicant. A crane will be used for the proposed tree removal. The Division of Natural Resources staff requested an invasive species plan be provided, with the species and location of invasives to be removed shown on a plan, method of control and timing of control identified. Mr. McCloy agreed to provide this documentation.

George Lewis moved to issue a Negative Determination #3 with Special Conditions, pending receipt of said documentation by Thursday. Steve Verrill seconded. All so voted.

CONCORD HOUSING TRUST, INC. / NOI -- 335 Walden Street - The proposed project involves demolishing the existing house, barn, and two sheds; constructing two residential buildings with associated facilities and parking; constructing a storage shed; and stormwater management within Bordering Land Subject to Flooding and the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-965**

Peter Farrow of the Concord Housing Trust attended the hearing together with Scott Smyers of Oxbow Associates. All Commissioners at tonight's meeting were present at the site visit held earlier this afternoon. Scott Smyers noted that the plan was slightly revised, showing one building rotated 90° and a relocated parking space to the rear of the buildings. Pre- and post-condition stormwater calculations have been submitted for review. The basin will be seeded with a native conservation seed mix and plantings. Natural Resources staff requested an invasive species plan be submitted for review. The Commission stated a desire to provide public access for farm and mower access to keep the open space parcel open, and provide access for the public. Peter Farrow advocated for privacy of the future homeowners. The Commission discussed ways to protect the wetland from future encroachment, and requested that the Applicant provide further information on methods to accomplish this. Mr. Farrow raised the issue of providing a visual barrier such as a stockade fence between the property owned by Mr. Michael Dane (abutter to the south) and the subject property within the 100-foot buffer zone to the wetland edge. It was also suggested that the applicant establish a monument bound once the property line is established. The Commission discussed the need to remove abandoned farm equipment and decaying creosote poles from the property. The Commission also requested that snow storage areas be shown on the plan and that the Applicant provide a construction sequence schedule. Delia Kaye informed the Applicant that the Town filing fee was waived for this project.

Oxbow Associates will provide revised plans by next Wednesday. This hearing was continued to April 2, 2008 at which time the Commission expects to close the hearing and issue the permit.

REQUEST FOR EXTENSION:

SILVER HILL POND – off Silver Hill Road, **DEP File #137-534**

A representative of the Silver Hill Pond Association was not present at this evening's hearing.

NORMANDY CONCORD ACQUISITION LLC (Roadway Order) – 300 Baker Avenue Extension, **DEP File #137-691**

This hearing was continued to April 2, 2008 at the request of the applicant.

REQUEST TO AMEND:

GRACE PROPERTIES, LLC (Malouf) – 63B Cambridge Turnpike, **DEP File #137-919**

Nicholas Pauling of Goldsmith, Prest & Ringwall, Inc. appeared on behalf of the applicant. Mr. Pauling indicated that the existing footprint of both buildings was proposed to be increased under this Amendment Request. The elevation increased one foot to accommodate the leaching areas. Jack Crosby of 646 Cambridge Turnpike attended the hearing and supported the increased square footage of the approved dwellings.

At the February 21, 2007 Natural Resources Commission meeting, DNR staff asked the applicant to explore placing the driveway over septic system with an easement in order to move work outside of the Riverfront Area.

Paul Feshbach-Meriney stated the cost analysis included a calculation for the old 3,000-square foot footprint and that a revised analysis must be submitted.

The Commission stated concern that incorrect information was stated in the Notice of Intent narrative. The narrative states "during the public hearing, the applicant offered to conduct said field-flagging, but was advised by members of the Commission to not do so. The Commission suggested that the applicant not incur expense because the Commission was opposed to a two-lot subdivision and would deny the Notice of Intent anyway." The Commission stated this was incorrect and for the record that the Commission and Natural Resources staff stated the MAHW Line flags must be flagged to evaluate the project. This was separate from the Commission's discussion of the scope of project.

Lisa Standley reviewed the performance standards of the Riverfront Area including the alternatives analysis. Lisa stated they consider abutting properties including the adjacent property for sale. This property was assessed at \$494,000, but this cost would require a 3-lot subdivision to make the project affordable. Lisa stated they did not include cost of roadway improvements. Lisa stated the construction of a single family house would create a loss.

At the April 4, 2007 Natural Resources Commission meeting, Jamie Bemis raised the issue of setting precedent and expressed concern about how this would impact future applications. Attorney Roy Cramer stated that this site is unique and could be distinguished from future cases. Steve Verrill noted that the project would have been much easier with a smaller scope of one house, and also presented concern with setting precedent. Jamie Bemis asked about the possibility of moving structures back to meet the 50-foot setback policy for new structures. Calvin Goldsmith of Goldsmith, Prest & Ringwall, Inc. responded by stating that there was an offset from the septic system and the house is shoe-horned in leaving no room. Even if the garage was reduced, the proximity of the house to the wetlands would not change. The Applicant, Michael Malouf of Grace Properties, LLC noted that the encroachment into the precedent area only concerned one corner of the house. The Commission asked the Applicant to provide a method for permanently demarcating the 25-foot No Disturb Zone from wetlands to prevent future violations.

George Lewis moved to deny the Amended Order of Conditions. Steve Verrill seconded. All so voted.

OTHER BUSINESS:

Trails Committee Report to NRC – Presentation by Ken Miller

Ken Miller addressed the Commission relative to the Trails Committee Report recently completed. The Committee is concentrating their efforts on monitoring the condition of existing public trails and trail markings on Town land, and identifying areas that need improvement. The Committee has decided to use the Town Forest as their pilot project because of its heavy use and visibility. Other towns were consulted to see what type of marking system they found favorable. After receiving input, the Committee is recommending the use of small colored plastic disks. Blazes were considered but it was determined they require too much maintenance. Harry Beyers has walked all the Town trails and many in Estabrook Woods and other private land. The Committee discussed the various ways in which to approach these parcels, those being (1) by easement; (2) obtaining a license from the landowner which could be rescinded at any time; or (3) a verbal approval of the landowner.

The Committee has undertaken a lot of work in the short time of its existence.

Article 35 – Presentation by Terry Rothermel, Nancy McJemmet and Jim Craig

Terry Rothermel presented the Commission with the 2nd draft of Article 35, Decision Process for Land Acquisitions. This group, Concord Housing Foundation, is one of four housing groups in Concord. Their group has asked the Board of Selectmen and the Town Manager that housing be a part of future discussions. Jim Craig noted the two treasures in Concord, (1) natural and open space areas; and (2) the human or historic economic diversity of the Town. Mr. Craig noted that their group hoped to keep farmable land in Concord. It is their Committee's goal to go beyond 40B housing and to consider all valued town employees to be able to afford housing in the town in which they work. They are looking for fair consideration of housing where town funds are included in the process. Mr. Craig noted that real estate taxes in town present a problem.

Town Meeting Articles - NRC Discussion

Tabled until the next scheduled meeting in order to have a full Commission present for discussion.

Concord Wold, LLC Positive Superseding Determination of Applicability

DEP's issued a Positive Superseding Determination of Applicability to Concord Wold upholding the Natural Resources Commission decision issued last fall. DEP's decision will mean that Mr. White will need to file a Notice of Intent to conduct the proposed exploratory borings.

Town-wide Cleanup – April 5 – April 13

In preparation of Patriot's Day, April 21st, CPW and Natural Resources are organizing the annual clean up of roadside litter and trash on public lands. The cleanup dates are Saturday, April 5th through Sunday, April 13th; bags will be picked up during the week of April 14th. Individuals, families, neighborhood groups, clubs and organizations are encouraged to contact the Division of Natural Resources for assignments and bags.

CLOSE HEARING/ISSUE PERMITS:

THE FIRST PARISH IN CONCORD / NOI, DEP File #137-960

Plan changes for water and sewer work and a construction sequence schedule was submitted and approved by DNR staff.

George Lewis moved to close the hearing. Steve Verrill seconded. All so voted. George Lewis moved to approve Findings 1-4. Steve Verrill seconded. All so voted. George Lewis moved to issue a Standard Order of Conditions 1-18 with Special Conditions 19-49. Steve Verrill seconded. All so voted.

CONCORD GREENE CONDOMINIUM ASSOCIATION (Extension), DEP File #137-833

This hearing was continued to April 2, 2008.

ANNURSNAC HILL ASSOCIATION POND (Extension), DEP File #137-638

This hearing was continued to April 2, 2008.

AMMENDOLIA

Steve Verrill will undertake the task of determining what can be grown at the Ammendolia site if fill is put down in order to accomplish the agricultural use of farming.

CERTIFICATES OF COMPLIANCE:

CLYMER – 13 River Street, DEP File #137-898

Steve Verrill moved to issue a Certificate of Compliance. George Lewis seconded. All so voted.

McCLOY – 231 Nashoba Road, DEP File #137-911

George Lewis moved to issue a Certificate of Compliance. Steve Verrill seconded. All so voted.

The meeting adjourned at 10:10 p.m.

Respectfully submitted,

Delia R. J. Kaye, Natural Resources Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant